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Amanda Jurgens

**UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF CALIFORNIA**

AMANDA JURGENS,

Plaintiff,

v.

**VELOCITY INVESTMENTS,
LLC AND
MANDARICH LAW GROUP,
LLP,**

Defendants.

Case No.:

**COMPLAINT FOR DAMAGES
FOR VIOLATIONS OF:**

- 1.) FAIR DEBT COLLECTION
PRACTICES ACT, 15 U.S.C.
§§ 1692 ET SEQ.; AND**
- 2.) ROSENTHAL FAIR DEBT
COLLECTION PRACTICES
ACT CAL CIV §§ 1788, ET
SEQ.**

DEMAND FOR JURY TRIAL

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INTRODUCTION

1. This is a case about a bad debt buyer and its collection law firm who intentionally filed a lawsuit against a consumer on a time-barred debt, in a county that she didn't live in, and then threatened her with continuing the illegal lawsuit if she didn't sign a paper that gave them a default judgment and the right to take money straight from her paycheck and her bank account.
2. **AMANDA JURGENS** ("Plaintiff"), by her attorney, brings this action for actual damages, statutory damages, attorneys fees, and costs, against **VELOCITY INVESTMENTS, LLC** ("Defendant Velocity") and **MANDARICH LAW GROUP, LLP** ("Defendant Mandarich") (jointly referred to as "Defendants") for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. ("FDCPA") and the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §§ 1788 et seq. ("RFDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive and unfair practices.
3. Plaintiff makes these allegations on information and belief, with the exception of those allegations that pertain to the Plaintiff, or to the Plaintiff's counsel, which Plaintiff alleges on personal knowledge.
4. While many violations are described below with specificity, this Complaint alleges violations of the statutes cited in their entirety.
5. All violations by Defendants were knowing, willful, and intentional, and Defendants did not maintain procedures reasonably adapted to avoid any such violations.
6. Unless otherwise indicated, the use of a Defendant's name in this Complaint includes all agents, principles, managing agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers of those Defendants named.

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JURISDICTION AND VENUE

7. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” 28 U.S.C. § 1331, which grants this court original jurisdiction of all civil actions arising under the laws of the United States, and pursuant to 28 U.S.C. § 1367 for pendent state law claims.
8. This action arises out of Defendants’ violations of the FDCPA, and the RFDCPA.
9. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because the acts and transactions occurred here, Plaintiff resides here, and Defendants transact business here.

FDCPA AND RFDCPA

10. In enacting the FDCPA, Congress found that:
 - a. There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.
 - b. Existing laws and procedures for redressing these injuries are inadequate to protect consumers.
 - c. Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.
 - d. Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.
 - e. It is the purpose of this title to eliminate abusive debt collection practice by debt collectors, to insure that those debt collectors who refrain from using

1 abusive debt collection practices are not competitively disadvantaged, and to
2 promote consistent State action to protect Consumers against debt collection
3 abuses. 15 U.S.C. § 1692.

4 11. Similarly, when enacting the RFDCPA, the California Legislature found that:

5 The banking and credit system and grantors of credit to consumers are
6 dependent upon the collection of just and owing debts. Unfair or
7 deceptive collection practices undermine the public confidence which
8 is essential to the continued functioning of the banking and credit
9 system and sound extensions of credit to consumers. Cal. Civil Code
10 § 1788.1(a)(1).

11 12. The FDCPA and the RFDCPA are both strict liability statutes. That is, a
12 plaintiff need not prove intent or knowledge on the part of the debt collector to
13 establish liability. *See Gonzales v. Arrow Fin. Servs., LLC*, 660 F.3d 1055,
14 1060-61 (9th Cir. 2011); *Donohue v. Quick Collect*, 592 F.3d 1027, 1030 (“[t]he
15 FDCPA is a strict liability statute that makes debt collectors liable for violations
16 that are not knowing or intentional”).

17 13. To further protect consumers, claims under the FDCPA and RFDCPA are to be
18 judged according to the “least sophisticated debtor” or “least sophisticated
19 consumer” standard. *Gonzales* at 1061. This standard is lower than the
20 “reasonable debtor” standard, and is specifically designed to protect consumers
21 of below average and sophistication or intelligence. *Id.* In addition, a plaintiff
22 need not even have actually been misled or deceived by the debt collector’s
23 communication. Rather, liability depends on whether the *hypothetical* least
24 sophisticated debtor – someone who is uninformed and naïve – would have
25 likely been misled. *Id.*; *see also Tourgeman v. Collins Financial Servs.*, 755
26 F.3d 1109, 1119 (9th Cir. 2014).

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PARTIES

14. Plaintiff Amanda Jurgens is natural person who resides in Calaveras County, California. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3) and a “Debtor” as that term is defined by Cal. Civ. Code § 1788.2(h).
15. Defendant Velocity Investments, LLC is a New Jersey corporation operating from an address of 1800 Route 34 North, Bldg #3, STE 305, Wall, NJ 07719, and is a “Debt Collector” as that term is defined by 15 U.S.C. § 1692a(6) and Cal. Civ. Code § 1788.2(c) because it regularly uses the mails and/or the telephone to collect, or attempt to collect, directly or indirectly, defaulted consumer debts that it did not originate. It operates a nationwide debt collection business and attempts to collect debts from consumers in virtually every state, including consumers in the State of California. Its principal, if not sole, business purpose is the purchase and collection of defaulted consumer debts originated by others, and, in fact was acting as a debt collector as to the delinquent consumer debt it attempted to collect from Plaintiff. Defendant Velocity is a bad debt buyer that buys large portfolios of defaulted consumer debts for pennies on the dollar, which it then collects upon through other collection agencies.
16. Defendant Mandarich Law Group, LLP is a Illinois law firm operating from an address of 420 N. Wabash Ave. STE 400, Chicago, IL 60611, and is a “Debt Collector” as that term is defined by 15 U.S.C. § 1692a(6) and Cal. Civ. Code § 1788.2(c) because it regularly uses the mails and/or the telephone to collect, or attempt to collect, directly or indirectly, defaulted consumer debts that it did not originate. It operates a nationwide debt collection business and attempts to collect debts from consumers in virtually every state, including consumers in the State of California. Its principal, if not sole, business purpose is the collection of defaulted consumer debts originated by others, and, in fact was acting as a debt collector as to the delinquent consumer debt it attempted to collect from Plaintiff.

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17. This case involves money due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction. As such, this action arises out of a “consumer debt” and “consumer credit” as those terms are defined by Cal. Civ. Code § 1788.2(f).

18. Plaintiff is informed and believes, and thereon allege that at all times herein mentioned Named Defendants were agents, officers, directors, managing agents, employee and/or joint venturer of each of their co-defendants and, in doing the things hereafter mentioned, each was acting in the scope of his authority as such agent, officer, director, managing agent, employee, and/or joint venturer, and with the permission, knowledge, ratification, and consent of their co-defendants, and each of them. Any reference hereafter to Defendants without further qualification is meant by Plaintiff to refer to each Defendant, and all of them, named above.

FACTUAL ALLEGATIONS

19. Plaintiff is an individual residing in Calaveras County, California.

20. Plaintiff is informed and believes, and thereon alleges, that at all times relevant, Defendants conducted and continue to conduct business in the State of California.

21. Defendant Velocity’s business consists solely of the acquisition and collection of delinquent consumer debts.

22. Defendant Mandarich’s business consists solely of the collection of delinquent consumer debts.

23. Some years ago, Plaintiff took out a loan for personal, family and household purposes. When she did that, she was living in San Benito County.

24. Defendant Velocity hired Defendant Mandarich as its agent to collect this debt from Plaintiff.

25. On September 28, 2021, Plaintiff was a resident of Calaveras County.

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26. On September 28, 2021, Defendants filed suit against Plaintiff in Monterey County in an attempt to collect the debt.

27. On or about October 5, 2021, Defendants mailed Plaintiff a letter to her address in Calaveras County regarding the lawsuit filed against her in Monterey County. This letter proposed that Plaintiff stipulate to a default judgement being entered against Plaintiff and for Defendants and told her that she “must” return the attached payment agreement and stipulation for default judgement on or before October 15, 2021 or else “we will proceed with the litigation against you.”

28. On or about November 1, 2021, Defendants mailed Plaintiff a dunning notice that confirmed to Plaintiff that the date of last payment on the loan was February 16, 2017. The letter also asked Plaintiff to call Defendants “before we initiate legal action.”

ACTUAL DAMAGES

29. Plaintiff has suffered actual damages as a result of these illegal collection and intimidation tactics by these Defendants in the form of invasion of privacy, personal embarrassment, loss of personal reputation, loss of productive time, nausea, and feelings of fear, anxiety, hopelessness, anger, persecution, emotional distress, frustration, upset, humiliation, and embarrassment, amongst other negative emotions.

CAUSES OF ACTION CLAIMED BY PLAINTIFF

COUNT I

VIOLATION OF § 1692D OF THE FDCPA

30. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

31. A debt collector violates § 1692d of the FDCPA when it engages in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

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32. Defendants violated § 1692d when they, among other qualifying actions and omissions, willfully annoyed, abused, harassed Plaintiff by knowingly suing her for a debt that was barred by the statute of limitations, suing her in a place where she neither lived nor signed a contract, issued a false ultimatum in order to coerce a confession of default judgment, and lied about having not already initiated a legal action.

COUNT II

VIOLATION OF § 1692E OF THE FDCPA

33. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

34. A debt collector violates § 1692e of the FDCPA when it uses any false, deceptive, or misleading representation or means in connection with the collection of any debt.

35. Defendants violated § 1692e when they, among other qualifying actions and omissions, willfully threatened her with consequences they could not legally deliver on, threatened her with a fake deadline for complying with their demands, and lied about not having initiated legal action.

COUNT III

VIOLATION OF § 1692I OF THE FDCPA

36. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

37. A debt collector violates § 1692i of the FDCPA when it brings a legal action against a consumer in a county where the consumer neither lives at the time of filing nor where the consumer signed the contract sued upon.

38. Defendants violated § 1692i when they, among other qualifying actions and omissions, willfully and without justification, sued Plaintiff in Monterey County and, while knowing that they were violating the law, threatened to continue to pursue that lawsuit.

COUNT IV

VIOLATION OF § 1788.17 OF THE RFDCPA

39. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

40. A defendant violates § 1788.17 of the RFDCPA when it fails to comply with the provisions of 15 U.S.C. § 1692b to 1692j, inclusive.

41. Defendants violated § 1788.17 of the RFDCPA when it willfully engaged in conduct, the natural consequence of which the violation of 15 U.S.C. § 1692e.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against each Defendant for:

- a) Award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) (FDCPA) and pursuant to Cal. Civ. Code § 1788.30 (RFDCPA), against each Defendant and for Plaintiff, and,
- b) Award of statutory damages in the amount of \$1000.00 pursuant to 15 U.S.C. § 1692k(a)(1) (FDCPA) against each Defendant and for Plaintiff, and,
- c) Award of statutory damages in the amount of \$1000.00 pursuant to Cal. Civ. Code § 1788.30 (RFDCPA) against each Defendant and for Plaintiff, and,
- d) Award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(1) (FDCPA) and pursuant to Cal. Civ. Code § 1788.30 (RFDCPA), against each Defendant and for Plaintiff, and,
- e) Award to Plaintiff of such other and further relief as may be just and proper.

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TRIAL BY JURY IS DEMANDED.

42. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

THE CARDOZA LAW CORPORATION

DATED: February 19, 2022

BY: /s/ MICHAEL F. CARDOZA

MICHAEL F. CARDOZA, ESQ.

LAUREN B. VEGGIAN, ESQ.

ATTORNEYS FOR PLAINTIFF,

AMANDA JURGENS

ELECTRONICALLY STORED INFORMATION REQUEST

This notice is to demand that you preserve all documents, tangible things and electronically stored information (“ESI”) potentially relevant to any issues in the above-entitled matter. This specifically includes, but is not limited to, all information pertaining to the above matter, including specifically all recordings of any telephone communication between your company and Plaintiff.

As used in this request, “you” and “your” or “your client” refers to your organizations, and its predecessors, successors in interest, assignees, parents, subsidiaries, divisions or affiliates, and their respective officers, directors, employees, servants, agents, attorneys, and accountants.

Much of the information subject to disclosure or responsive to discovery is stored on your client’s current and former computer systems and other media and devices (such as: personal digital assistants, voice-messaging systems, online repositories and cell phones).

Electronically stored information (“ESI”) should be afforded the broadest possible definition and includes (for example and not as an exclusive list) potentially relevant information whether electronically, magnetically or optically stored.

This preservation obligation extends beyond ESI in yours or your client’s care, possession or custody and includes ESI in the custody of others that is subject to your client’s direction or control. You must notify any current or former agent, attorney, employee, custodian or contractor in possession of potentially relevant ESI to preserve such ESI to the full extent of your client’s obligation to do so, and you must try to secure their compliance.